

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 5 MOTIONS	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**MEMORANDUM IN SUPPORT OF MOTION TO EXCLUDE
CERTAIN GENERAL OPINIONS OF JERRY BLAIVAS, M.D.**

Defendants Ethicon, Inc., Ethicon LLC, and Johnson & Johnson (collectively “Ethicon”) submit this memorandum in support of their motion to exclude certain general opinions of Jerry G. Blaivas, M.D., with respect to the cases set forth in Exhibit A to Defendants’ accompanying motion.

Ethicon hereby adopts and incorporates by reference all of the arguments that it presented as part of its briefing in the Wave 4 cases. *See* Doc. 3589. Ethicon, however, also asserts the following addition argument:

I. The Court should preclude Dr. Blaivas from providing general opinions about Prolift +M, because he has not disclosed any opinions about that device.

One of the Wave 5 Plaintiffs who designated Dr. Blaivas as a general causation expert, Monnica Reyes in Case No. 2:12-cv-06141, was implanted with a TVT-O device and a Prolift +M device. Ex. B, Product identification labels. Although Dr. Blaivas has prepared a general TVT-O report, Dr. Blaivas has not prepared a report for Prolift +M in this and other waves of cases only for certain devices. To the extent that Dr. Blaivas intends to provide opinions in this case about Prolift +M, the Court should exclude such opinions as being undisclosed.

Ethicon has asked Ms. Reyes, through counsel, if she intends to elicit testimony from Dr. Blaivas only about TVT-O, or also about Prolift +M. Ex. C, 8/1/17 email corresp. Ms. Reyes, however, has not responded. This Court has recognized that, “[u]nder Rule 26, expert reports must contain ‘a complete statement of all opinions the witness will express and the basis and reasons for them.’” *Lewis v. Ethicon, Inc.*, 2014 WL 186872, at *17 (S.D.W. Va. Jan 15, 2015) (citing Fed. R. Civ. P. 26(a)(2)(B)(i)). Because Dr. Blaivas has not disclosed any opinions about Prolift +M, the Court should preclude him from testifying about that device in this wave of cases. Otherwise, Ethicon would be prejudiced.

CONCLUSION

For the foregoing reasons and those set forth in Doc. 3589, the Court should limit Dr. Blaivas’s general opinions consistent with the above.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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